Secrt. 71-37—45,00 —1/-11-35.

E & P 14 (1936) Department.

MS SERIES.

G.O. No. 1107

DATED 30-7-1936

[Despatch Abstract.

Pay - Leave salary - B. Thimmayya, Peon, Office of the District Medical Officer, South Kanara, Excess paid - Recovery - Waived

G.F. 30.

Education and Public Health DEPARTMENT.

Received ..... 19 *Registered* 19

Subject.

T 7

B. Thimmayya - late peon, District Medical Officer's Office, South Kanara - recovery of excess leave salary - waiving of -

ENCLOSURES.
No. .....
.....
Spare copies .....

Ref. No. 502-Accounts.

Station Madras. *Dated the* 25th May, 1936

From (Name) Lt. Col. Clive Hexcomb, I.M.S.,
(Designation) Offg. Surgeon-General with the Govt. of Madras.

To The Secretary to the Government of Madras,
Education and Public Health Department.
Sir, (Through the Accountant-General, Madras).

fo 2 infra

In forwarding herewith a copy of the letter R. No. 233-9-D of 35 dated 25-4-36 of the District Medical Officer, South Kanara, regarding the excess leave salary paid to B. Thimmayya, late peon of his office. I have the honour to request that in the circumstances stated therein Government will be pleased to waive the recovery of the excess leave salary paid to the retired peon in question.

I have the honour to be,
Sir,
Your most obedient servant,

25/5/36
Personal Assistant
for Surgeon-General with the Govt. of Madras.

R.G./2

Copy of letter R. No. 233-9-D of 35 dated 25-4-36 from the District Medical Officer, South Kanara.

Sub:- Pension papers - B. Thimmayya - late peon of the District Medical Office, South Kanara, Mangalore - excess leave granted during service - excess payment of leave salary - recovery to be considered.

B. Thimmayya, a peon of this office retired on 17-7-34. When the application for the gratuity was forwarded to the Accountant-General, Madras, for pre-audit, he returned the papers saying that there was an irregular grant of leave during the year 1924-25, resulting in an overpayment. He states that the peon was granted leave on H.A.P. when he had no credit. Apparently leave was granted to the peon by the then District Medical Officer, reckoning the leave earned in respect of service under the District Board prior to the provincialisation of the hospital in which case there appears to be no excess. On receipt of the above objection slip, the President, District Board, South Kanara was addressed to pay the leave salary in respect of the leave granted from 1-4-23 to 31-10-23 on A.P. and leave on H.A.P. from 1-9-24 to 30-9-25 but the President, District Board, states that the Board has finally settled the claim of the peon by paying a gratuity for the period of service under the District Board and that the Board had not agreed at the time of his transfer to Government service to bear his leave salary for the period of leave earned when he was in the service of the Board. The latter statement of the President, District Board, is not borne out by any records as the President, District Board, states that the file of correspondence granting leave salary to the peon has been destroyed.

2. The G.O. regarding provincialisation is not available either in the District Board Office or in this office. If the leave

leave salary in respect of leave earned under the service of the District Board is not to be reckoned at all, there is an excess grant of leave on H.A.P. to the extent of 1 year 4 days resulting in an excess payment of Rs. 72-13-0. A further reference was made by the Accountant-General to this office as to the willingness of the peon to adjust the gratuity amount towards the excess leave salary and he has been informed that the peon is not willing to do so. The Accountant-General again stated that the excess payment should be regularised as per Article 156 (3) (a) of Audit Code.

3. Under the circumstances it is for the Surgeon-General with the Government of Madras, Madras, to consider whether the Government may be moved to waive the recovery as a special case or whether the Government may be referred for decision as to whether the District Board is liable to pay the leave salary to the peon.

4. The service register, leave account and the other connected papers are in the office of the Accountant-General, Madras.

Edt.

No. Edn 827 OFFICE OF THE ACCOUNTANT-GENERAL, MADRAS.

Fort St. George, 8.6.1936

Enclosures:

3933

Subject:— B. Thimmayya. late Accountant
District Medical officer's Office S. Kanara
Recovery of excess leave salary.
Waiving of. [Surgeon-General's
Letter No. 502. Accts. dt 25th May '36]

Endt.

Forwarded.

2. There is no audit objection to Government waiving recovery of excess leave salary paid to the Accountant from provincial revenues.

Sd. Subramania
for Accountant-General

To The Secretary to Government
Education & Public Health
Department
Madras.

WJ/LL.

E.&.P.H. Dept.

Pay - Leave Salary - B.Thimmayya - Peon Office of the DM.O., South Kanara - Excess disbursed - Recovery-Waving of.

S.No. 5955 from the S.G. No. 502. Accounts dated 25 - 5 - '26.

Endt of the A.G. No. M. 10637 dated 8-6-'26.

Page 1 Cf.

Page 4 Cf.

Page 4 Cf.

The S.G. reports of an instance of over - payment of leave salary to peon B. Thimmayya of the office of the D.M.O. South Kanara on account of leave on half average pay granted to him from 1st Sept. '24 to 30-9-'25. The amount involved is reported to be Rs. 72-15-0 . The S.G. recommends waiver the recovery of the amount and the A.G. considers that there is no objection to the course if sanctioned by the Government.

2. The peon was under L.F. Service till 1-4-'23. On that date he had 29 years service to his credit. This office was provincialised with effect from 1 - 4 - '23, the services of the peon also being transferred along with the office. From 1-4-'23 the the Govt. undertook the responsibility for the maintanance of the staff &c.

3. The peon in question was on leave on A.P. from 1-4-'23 to 31 - 10- '23 i.e. he was on leave with effect from the date of transfer of the office and evidently the peon was being paid from provincial funds. Subsequent he was granted leave on H.A.P. with effect from 1-9-'24 to 30 - 9 - '25 . According to the S.G's report the A.G. has taken objection only to the grant of leave from 1-9-'24 to 30-9-'25. The S.G. considers that the peon will be eligible for the leave if his also period of service under the local Board is taken into consideration for purposes of leave . The S.G. therefore seems to presume that the A.G. has objected to

to the leave on H.A.P. because he has not earned it while under Govt. service. If that be so, the period of his leave on A.P. for the period from 1-4-'23 to 31 - 10 - '23 also should have been/held under objection It is not known why the A.G. has not made any reference to this period . If he is not eligible for the leave on A.P. the amount of leave salary paid during that period also should either be recovered or be waived. The S.G's remarks on this point may be invited U.O. and they may be submitted to Govt. through the A.G.

Is leave salary was probably met from Dt. Bd.; but it is not clear
Ld 30/6
Vide Sec x'of p 2 of 5.

4. If a recovery has to be ordered it has to be decided as to who should pay - the Dt. Board, the officers and the staff responsible , or the person who received payment -

(T)

Ld 664 PH 17-4-28

Responsibility of the Dt. Board. The transfer arrangements do not provide for any such payments. As there was no specific provision in this behalf the Dt. Bd. is not obliged to pay any thing towards the leave salary, nor can they be compelled. Attention in this connection is invited to the opinion of the Govt. pleader in a similar case.--Vide pages 16 and 17 of G.O. No. 102.P.H. dated 16 - 1 - '35 - . The recovery of the amount from the Dt. Bd. is therefore out of question.

Compare Govt. Nos 5293 Genl. 14-12-26 (T). 3580 Genl. 7-9-32 (I).

(X)

Responsibility of the officers and staff.

The existing rules do not permit the payment from Provincial funds of leave salary on account of the leave earned under a local body ~~from provincial funds~~. The payment of leave salary for both the periods (Leave on A.P. during the period from 1-4-'23 to 31-10-'23 and the leave on H.A.P. for a period of 1 year and 4 days during the period of leave from 1-9-'24 to 30-9-'25) is irregular. The only alternative will be to credit the above periods of leave towards the leave if any he has subsequently earned and which he has not availed of. The remarks of the S.G. may be invited on this point also.

If the alternative suggested at 'A' on page 2 ante is not feasible and if it is decided to make the necessary recovery from the officers and staff concerned then the S.G. may be asked to furnish the name of the officers and staff concerned with their explanations thereon.

The responsibility of the peon - (the person who enjoyed the benefit) Ordinarily it should be considered that there should be no hardship in one's repaying the money to which he is not entitled. But it should be a real hardship for a low paid servant to repay the amount after retirement. ~~menial who even in the 31th year of his service was drawing only Rs. 12/- p.m. and who must have retired while he was drawing Rs. 13/- or 14/- p.m.~~ To make this amount drawn by him as leave salary a charge on his gratuity will be a real hardship. The peon may therefore be exempted from the payment.

5. Attention in this connection is however invited to the orders in G.O.No. 628. P.H. dated 5-6-'36 limiting the responsibility for refunds in respect of overpayments to three years from the date of detection while the disbursal on account of under payments is ,limited to one year from the date of detection.- Vide also notes at 'Y' on page 6 of (H) - In connection with a case of under payment to a compounder the Fin. dept have advised this dept. to adopt this decision in settling the claims of the compounder it is for consideration whether this principle should not be adopted in the present case also. The remarks of the Finance dept. may be invited U.O.

(H)

27.6.36 27.6.36

On the

On the basis of the principle adopted in S.O.N. 628 P. H.D. 5.6.36, the refund need not be insisted on, as the leave salary in question was paid so far back as in 1925. There seems to be no need to call for any further information from the L.G.

Sd 30/6

See Fin

I do not think refund of the over-payment need be insisted on in this case. The overpayment was made more than 10 years ago & the person has now retired.

Com 7/7/36

Fin w.

Finance (E.S.R.) Dept.

Subd. that in the circumstances of the case, Finance may agree to waiver of recovery of the amount

Ors 5.7.36

Sve 15.7.36

Com 16.7.36

Edn & P.H.

Fin No 19979.C&A.-
20 Edn Fin 36

GK

ASST. SECRETARY TO GOVT. EDUCATION & PUBLIC HEALTH DEPTS.
20 JUL 1936

Edn 3933 1 Ds
21/7/36
Dr

6388

FINANCE DEPARTMENT
21 JUL 1936

E + P Dept

draft order is put
up below for approval.

27/7/36

27.7.36.

Edn Dept.

26/3097

C.F.17.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT:— Pay- leave Salary - B. Thimmayya Peon. office of the D.M.O. South Kanara. Excess paid - Recovery - waived.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

No. 3933 From the A.G., No. 502-A; dated 25.5.1936.

" Endt. A.G. M; 10634 " 8.6.1936.

" _____ " _____ " _____ " _____ 19____.

~~Order~~ ~~Resolution~~ ~~Ms.~~ ~~Rout.~~ No. 1107, dated 30.7. 1936.

As the Govt. sanction the waiver of the recovery of the excess leave salary paid to B. Thimmayya, late peon of the office of the D.M.O South Kanara in respect of the leave granted to him after the transfer of his service from the Dt. Bd. to the Govt.

Typed by Examiner

Dt. 1/8/36

Dc

To
The S.G.
The A.G. (Through Finance).
The Tr.

26/7/36.
27.7.36.